



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

|                                  |             |                      |                               |                  |
|----------------------------------|-------------|----------------------|-------------------------------|------------------|
| APPLICATION NO.                  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
| 10/829,393                       | 04/22/2004  | Shigesato Itoi       | 723-1512                      | 5420             |
| 27562                            | 7590        | 08/18/2009           | EXAMINER                      |                  |
| NIXON & VANDERHYE, P.C.          |             |                      | TORIMERO, ADETOKUNBO OLUSEGUN |                  |
| 901 NORTH GLEBE ROAD, 11TH FLOOR |             |                      | ART UNIT                      | PAPER NUMBER     |
| ARLINGTON, VA 22203              |             |                      | 3714                          |                  |
| MAIL DATE                        |             | DELIVERY MODE        |                               |                  |
| 08/18/2009                       |             | PAPER                |                               |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |   |                                   |
|------------------------------|---|-----------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/829,393      | <b>Applicant(s)</b><br>ITO ET AL. |
|                              | <b>Examiner</b><br>ADETOKUNBO O. TORIMIRO | <b>Art Unit</b><br>3714           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 27 February 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-44 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-44 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. The amendment received on 07/15/2008 has been considered. It has been noted that claims 1,14,25,36,43, and 44 have been amended.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itou (US 6,439,998) in view of Nakatani et al (US 5,720,663) and Okita et al (US 6,422,945).

Re claim 1: Itou teaches a game apparatus displaying a battle scene in which characters in a game world fight with each other (**see fig.9; col.1, lines 53-56**), comprising: one or more first storage locations for storing one or more parameters for each enemy appearing in said game world (**see col.6, lines 24-30**); one or more second storage locations for storing one or more operation timing / *waiting time* indicative of player timings to be input in association with each enemy (**see col.6, lines 34-53**); input pattern changing programmed logic circuitry for displaying, when the battle scene is displayed, an input pattern and changing a displaying manner of said input pattern on the basis of one of one or more the operation timing patterns associated with the enemy character appearing in said battle scene stored in said second storage locations (**see col.5, lines 57-62 and col.6, lines 6-11**); changing value calculating programmed logic circuitry for calculating a changing value for changing the parameter of the enemy depending upon a degree

of coincidence between the operation timing of said player at a time of being detected by said operation detecting programmed logic circuitry and the timing of the operation timing pattern (see col.10, lines 44-51); and parameter updating programmed logic circuitry for updating the parameter / *executing time* of the enemy appearing in said battle scene on the basis of the changing value calculated by said changing value calculating programmed logic circuitry (see abstract, lines 10-15).

However, Itou does not explicitly teach an operation detecting programmed logic circuitry for detecting an operation by said player input in response to a change of said input pattern; one or more storage locations for storing for a plurality of enemies, one or more operation timing patterns indicating the optimal timing of one or more sequential player inputs to be input in association with a corresponding enemy.

Nakatani et al teaches an operation detecting programmed logic circuitry for detecting an operation by said player input in response to a change of said input pattern (see col.6, lines 19-35).

Okita et al teaches one or more storage locations for storing for a plurality of enemies / *opponents*, one or more operation timing patterns indicating the timing of one or more sequential player inputs to be input in association with a corresponding enemy (see col.6, lines 44-64). Further, Okita et al teaches a storage specifically for storing the pattern of timing of attacks during the game play. Lines 50-53 of col.6 explains that these stored patterns correspond to the enemy punching attack process which reads on the applicants claim of storing operating timing patterns for plurality of enemies and sequential/*pattern* input of game play.

Therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to combine the teachings and inventions of Itou, Nakatani et al, and Okita et al so as to provide a means for detecting the player input in the game and hence to carry out the operation in response to the input of the player in a specified and predetermined timing.

Re claim 2: Itou teaches the game apparatus, wherein said second storage locations store for each character the operation timing patterns having different difficulty levels of an operation for said player (see **col.6, lines 34-53**), and said instruction image changing mechanism changes the displaying manner of said instruction image on the basis of the operation timing pattern associated with any one of an offensive character and a defensive character (see **col.5, lines 57-62 and col.6, lines 6-11**). **It is apparent to Examiner that the storage location is simply a storage, which stores any information regarding the game and characters regardless of difficulty level as long as there is an instruction to do so.**

Re claims 3 and 7: Itou teaches the game apparatus displaying a battle scene in which characters in a game world fight with each other (see **fig.9; col.1, lines 53-56**).

However, Itou fails to teach a game apparatus, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character

depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended.

Nakatani et al teaches a game apparatus, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended (see fig.13B; col.9, lines 42-58).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou and Nakatani et al since the strength and skill of a game character is one of the characters attribute/parameter and also since it is only obvious to adjust and reduce the defensive character's strength as a result of damages received from the opposing character thereby making the game more realistic and hence increasing the player's enjoyment of the game.

Re claims 4 and 5: Itou teaches the game apparatus, wherein said instruction image changing mechanism changes the displaying manner by displaying said instruction image in one of a rhythmic manner, an enlarged/reduced manner, and a displayed/non-displayed manner on

the basis of the operation timing pattern associated with the character appearing in said battle scene; wherein said instruction image changing mechanism changes at least one of a color and a shape of said instruction image at the timing that has to be operated by said player on the basis of the operation timing pattern (see **col.5, lines 57-62 and col.6, lines 6-11**). **It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.**

Re claim 6: Itou teaches the game apparatus, further comprising a music reproducing mechanism / *output unit* (6) for reproducing music data for playing a BGM in said battle scene (see **fig.1; col.6, lines 1-5**), wherein said second storage locations store the music data which is utilized as the operation timing pattern and is constituted of a plurality of kinds of parts each being a reproduction object by said music reproducing mechanism (see **col.6, lines 24-30**), and said instruction image changing mechanism changes the displaying manner of said instruction image on the basis of any one of the parts constituting the music data when said BGM is being played by said music reproducing mechanism (see **col.5, lines 57-62 and col.6, lines 6-11**). **It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.**

Re claims 8 and 10: Itou teaches the game apparatus, wherein said changing value calculating mechanism calculates the changing value so as to significantly change the parameter

of the character as a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting mechanism and the timing of the operation timing pattern corresponding to said timing is higher; wherein said changing value calculating mechanism calculates the changing value so as to be gradually increased when the degree of coincidence between the operation timing of said player detected by said operation detecting mechanism and the timing of the operation timing pattern is successively high (see **col.10, lines 44-51**).

Re claim 9: Itou teaches the game apparatus, wherein said operation timing pattern is constructed so as to be successively operated at a plurality of timing patterns by said player (see **col.6, lines 49-53**), and said changing value calculating mechanism calculates, every time that the operation by said player is detected by said operation detecting mechanism, the changing value depending upon a degree of coincidence between the operation timing by said player at that time and the timing of the operation timing pattern corresponding to said time (see **col.10, lines 44-51**).

Re claim 11: Itou teaches the game apparatus, further comprising turn changing programmed logic circuitry for allowing successive operations by said player while the degree of coincidence is not lower than a predetermined value and making a change between an offensive turn and a defensive turn at a time that the degree of coincidence becomes lower than the predetermined value, wherein said battle scene is for fighting the characters with each other by alternately repeating said offensive turn and said defensive turn (see **fig.3; col. 2, lines 30-45**

**and col.6, lines 58-67).**

Re claim 12: Itou teaches the game apparatus, further comprising third storage locations for storing the number of operable times / *waiting time* information indicative of the number of operable times by said player (see **col.6, lines 34-41**); a number of times reducing mechanism for reducing the number of operable times depending upon an operation of said player; and an operation ending mechanism for ending the operation by said player when the number of operable times becomes 0 (see **figs. 10A-10D; col.12, lines 1-7**).

Re claim 13: Itou teaches the game apparatus, further comprising a number of times increasing mechanism for increasing the number of operable times when the degree of coincidence between the operation timing of said player and the timing of the operation timing pattern is successively higher (see **col.10, lines 44-51**).

Re claim 14: Itou teaches a memory medium encoded with a game program for execution by a computer of a game apparatus in order to display a battle scene in which characters in a game world fight with each other (see **figs.1 and 9; col.1, lines 53-56**), comprising: first storage locations for storing a parameter for each character appearing in said game world (see **col.6, lines 24-30**); second storage locations for storing an operation timing pattern / *waiting time* indicative of player timings to be operated in association with each character (see **col.6, lines 34-53**); input pattern changing programmed logic circuitry for displaying, when the battle scene is displayed, an input pattern and changing a displaying manner of said input pattern on the basis of

one of one or more the operation timing patterns associated with the enemy character appearing in said battle scene stored in said second storage locations (see col.5, lines 57-62 and col.6, lines 6-11); a changing value calculating mechanism for calculating a changing value for changing the parameter of the character depending upon a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting mechanism and the timing of the operation timing pattern (see col.10, lines 44-51); and a parameter updating mechanism for updating the parameter / *executing time* of the character appearing in said battle scene on the basis of the changing value calculated by said changing value calculating mechanism (see abstract, lines 10-15).

However, Itou does not explicitly teach an operation detecting mechanism for detecting an operation by said player input in response to a change of said instruction image; one or more storage locations for storing for a plurality of enemies, one or more operation timing patterns indicating the timing of one or more sequential player inputs to be input in association with a corresponding enemy.

Nakatani et al teaches an operation detecting mechanism for detecting an operation by said player input in response to a change of said instruction image (see col.6, lines 19-35).

Okita et al teaches one or more storage locations for storing for a plurality of enemies / *opponents*, one or more operation timing patterns indicating the timing of one or more sequential player inputs to be input in association with a corresponding enemy (see col.6, lines 44-64).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou, Nakatani et al, and Okita et al so as to provide a means for detecting the player input in the game and

hence to carry out the operation in response to the input of the player in a specified and predetermined timing.

Re claim 15: Itou teaches the memory medium with a game program wherein said computer functions such that said second storage locations store for each character the operation timing patterns having different difficulty levels of an operation for said player (see **col.6, lines 34-53**), and said instruction image changing mechanism changes the displaying manner of said instruction image on the basis of the operation timing pattern associated with any one of an offensive character and a defensive character (see **col.5, lines 57-62 and col.6, lines 6-11**). It is apparent to Examiner that the storage location is simply a storage, which stores any information regarding the game and characters regardless of difficulty level as long as there is an instruction to do so.

Re claims 16 and 20: Itou teaches the memory medium encoded with a game program for execution and displaying a battle scene in which characters in a game world fight with each other (see **fig.9; col.1, lines 53-56**).

However, Itou fails to teach a game apparatus, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character

depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended.

Nakatani et al teaches a game apparatus, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended (see **fig.13B; col.9, lines 42-58**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou and Nakatani et al since the strength and skill of a game character is one of the characters attribute/parameter and also since it is only obvious to adjust and reduce the defensive character's strength as a result of damages received from the opposing character thereby making the game more realistic and hence increasing the player's enjoyment of the game.

Re claims 17 and 18: Itou teaches the memory medium encoded with a game program, wherein said instruction image changing mechanism changes the displaying manner by displaying said instruction image in one of a rhythmic manner, an enlarged/reduced manner, and a displayed/non-displayed manner on the basis of the operation timing pattern associated with

the character appearing in said battle scene; wherein said instruction image changing mechanism changes at least one of a color and a shape of said instruction image at the timing that has to be operated by said player on the basis of the operation timing pattern (see col.5, lines 57-62 and col.6, lines 6-11). It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.

Re claim 19: Itou teaches the memory medium encoded with a game program wherein gaming apparatus, further comprising a music reproducing mechanism / *output unit* (6) for reproducing music data for playing a BGM in said battle scene (see fig.1; col.6, lines 1-5), wherein said second storage locations store the music data which is utilized as the operation timing pattern and is constituted of a plurality of kinds of parts each being a reproduction object by said music reproducing mechanism (see col.6, lines 24-30), and said instruction image changing mechanism changes the displaying manner of said instruction image on the basis of any one of the parts constituting the music data when said BGM is being played by said music reproducing mechanism (see col.5, lines 57-62 and col.6, lines 6-11). It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.

Re claims 21 and 23: Itou teaches the memory medium encoded with a game program, wherein said changing value calculating mechanism calculates the changing value so as to

significantly change the parameter of the character as a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting mechanism and the timing of the operation timing pattern corresponding to said timing is higher; wherein said changing value calculating mechanism calculates the changing value so as to be gradually increased when the degree of coincidence between the operation timing of said player detected by said operation detecting mechanism and the timing of the operation timing pattern is successively high (see **col.10, lines 44-51**).

Re claim 22: Itou teaches the memory medium encoded with a game program, wherein said operation timing pattern is constructed so as to be successively operated at a plurality of timing patterns by said player (see **col.6, lines 49-53**), and said changing value calculating mechanism calculates, every time that the operation by said player is detected by said operation detecting mechanism, the changing value depending upon a degree of coincidence between the operation timing by said player at that time and the timing of the operation timing pattern corresponding to said time (see **col.10, lines 44-51**).

Re claim 24: Itou teaches the memory medium encoded with a game program further comprising turn changing programmed logic circuitry for allowing successive operations by said player while the degree of coincidence is not lower than a predetermined value and making a change between an offensive turn and a defensive turn at a time that the degree of coincidence becomes lower than the predetermined value, and wherein said battle scene is for fighting the characters with each other by alternately repeating an offensive turn and a defensive turn (see

**fig.3; col. 2, lines 30-45 and col.6, lines 58-67).**

Re claim 25: Itou teaches a game method of a game apparatus which displays a battle scene in which characters in a game world fight with each other (see **figs.1 and 9; col.1, lines 53-56**), comprising: first storage locations for storing a parameter for each character appearing in said game world (see **col.6, lines 24-30**); second storage locations for storing an operation timing pattern / *waiting time* indicative of player timings to be operated in association with each character (see **col.6, lines 34-53**); an instruction image changing mechanism for displaying, when the battle scene is displayed, an instruction image and changing a displaying manner of said instruction image on the basis of the operation timing pattern associated with the character appearing in said battle scene stored in said second storage locations (see **col.5, lines 57-62 and col.6, lines 6-11**); a changing value calculating mechanism for calculating a changing value for changing the parameter of the character depending upon a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting mechanism and the timing of the operation timing pattern (see **col.10, lines 44-51**); and a parameter updating mechanism for updating the parameter / *executing time* of the character appearing in said battle scene on the basis of the changing value calculated by said changing value calculating mechanism (see **abstract, lines 10-15**).

However, Itou does not explicitly teach an operation detecting mechanism for detecting an operation by said player input in response to a change of said instruction image.

Nakatani et al teaches an operation detecting mechanism for detecting an operation by said player input in response to a change of said instruction image (see **col.6, lines 19-35**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou and Nakatani et al so as to provide a means for detecting the player input in the game and hence to carry out the operation in response to the input of the player.

Re claim 26: Itou teaches the game method wherein said computer functions such that said second storage locations store for each character the operation timing patterns having different difficulty levels of an operation for said player (**see col.6, lines 34-53**), and said steps changes the displaying manner of said instruction image on the basis of the operation timing pattern associated with any one of an offensive character and a defensive character (**see col.5, lines 57-62 and col.6, lines 6-11**). **It is apparent to Examiner that the storage location is simply a storage, which stores any information regarding the game and characters regardless of difficulty level as long as there is an instruction to do so.**

Re claims 27 and 31: Itou teaches the game method for executing and displaying a battle scene in which characters in a game world fight with each other (**see fig.9; col.1, lines 53-56**).

However, Itou fails to teach a gaming method, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character

depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended.

Nakatani et al teaches a gaming method, wherein the parameter includes a physical strength parameter on which a battle continuing ability of the character depends, and said parameter updating mechanism reduces the physical strength parameter of a defensive character such that the defensive character appearing in said battle scene is damaged on the basis of the changing value calculated by said changing value calculating mechanism; wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended (see **fig.13B; col.9, lines 42-58**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou and Nakatani et al since the strength and skill of a game character is one of the characters attribute/parameter and also since it is only obvious to adjust and reduce the defensive character's strength as a result of damages received from the opposing character thereby making the game more realistic and hence increasing the player's enjoyment of the game.

Re claims 28 and 29: Itou teaches the gaming method, wherein said instruction image changing mechanism changes the displaying manner by displaying said instruction image in one of a rhythmic manner, an enlarged/reduced manner, and a displayed/non-displayed manner on the basis of the operation timing pattern associated with the character appearing in said battle

scene; wherein said instruction image changing mechanism changes at least one of a color and a shape of said instruction image at the timing that has to be operated by said player on the basis of the operation timing pattern (see col.5, lines 57-62 and col.6, lines 6-11). **It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.**

Re claim 30: Itou teaches the gaming method of gaming apparatus, further comprising a music reproducing mechanism / *output unit* (6) for reproducing music data for playing a BGM in said battle scene (see fig.1; col.6, lines 1-5), wherein said second storage locations store the music data which is utilized as the operation timing pattern and is constituted of a plurality of kinds of parts each being a reproduction object by said music reproducing mechanism (see col.6, lines 24-30), and said instruction image changing mechanism changes the displaying manner of said instruction image on the basis of any one of the parts constituting the music data when said BGM is being played by said music reproducing mechanism (see col.5, lines 57-62 and col.6, lines 6-11). **It is apparent to the Examiner that the present graphic processor makes it possible for any variety of display to be processed and displayed based on whatever is programmed and instructed into the game and hence battle scene.**

Re claims 32 and 34: Itou teaches the gaming method, wherein said changing value calculating mechanism calculates the changing value so as to significantly change the parameter of the character as a degree of coincidence between the operation timing of said player at a time

of being detected by said operation detecting mechanism and the timing of the operation timing pattern corresponding to said timing is higher; wherein said changing value calculating mechanism calculates the changing value so as to be gradually increased when the degree of coincidence between the operation timing of said player detected by said operation detecting mechanism and the timing of the operation timing pattern is successively high (see **col.10, lines 44-51**).

Re claim 33: Itou teaches the gaming method, wherein said operation timing pattern is constructed so as to be successively operated at a plurality of timing patterns by said player (see **col.6, lines 49-53**), and said changing value calculating mechanism calculates, every time that the operation by said player is detected by said operation detecting mechanism, the changing value depending upon a degree of coincidence between the operation timing by said player at that time and the timing of the operation timing pattern corresponding to said time (see **col.10, lines 44-51**).

Re claim 35: Itou teaches the gaming method further comprising turn changing programmed logic circuitry for allowing successive operations by said player while the degree of coincidence is not lower than a predetermined value and making a change between an offensive turn and a defensive turn at a time that the degree of coincidence becomes lower than the predetermined value, wherein said battle scene is for fighting the characters with each other by alternately repeating an offensive turn and a defensive turn (see **fig.3; col. 2, lines 30-45 and col.6, lines 58-67**).

4. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itou (US 6,439,998) in view of Nakatani et al (US 5,720,663) and Suzuki et al (US 5,592,609).

Re claims 36 and 37: Itou teaches a game apparatus displaying a battle scene in which characters in a game world fight with each other (see **figs.1 and 9; col.1, lines 53-56**), comprising: first storage locations for storing a parameter for each character appearing in said game world (see **col.6, lines 24-30**); second storage locations for storing in association with said each character background music that renders an operation timing pattern presenting to a player timing patterns to be operated in a rhythm pattern (see **col.6, lines 24-30**); a changing value calculating mechanism for calculating a changing value for changing the parameter of the character depending upon a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting mechanism and the timing of the operation timing pattern; wherein said changing value calculating mechanism calculates the changing value so as to be gradually increased when the degree of coincidence between the operation timing of said player detected by said operation detecting mechanism and the timing of the rhythm pattern is successively high (see **col.10, lines 44-51**); and a parameter updating mechanism for updating the parameter / *executing time* of the character appearing in said battle scene on the basis of the changing value calculated by said changing value calculating mechanism (see **abstract, lines 10-15**).

However, Itou does not explicitly teach an operation detecting mechanism for detecting an operation by said player input after the background music starts to be reproduced; a BGM reproducing mechanism for reproducing background music associated with the character

appearing in said battle scene stored in said second storage locations.

Nakatani et al teaches an operation detecting mechanism for detecting an operation by said player input after the background music starts to be reproduced (see **col.6, lines 19-35**).

Suzuki et al teaches a music reproducing mechanism for reproducing background music stored in said one or second storage locations associated with the enemy appearing in said battle scene (see **col.28, lines 37-54**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou, Nakatani et al, and Suzuki et al so as to provide a means for detecting the player input in the game and hence to carry out the operation in response to the input of the player and providing music for each character/unit in the game thereby making the game more interesting..

5. Claims 38-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itou (US 6,439,998) in view of Nakatani et al (US 5,720,663) and Komoto (US 6,273,814).

Re claims 38 and 40-44: Itou teaches a game apparatus displaying a battle scene in which characters in a game world fight with each other (see **fig.9; col.1, lines 53-56**), comprising: one or more first storage locations for storing one or more parameters for each enemy appearing in said game world (see **col.6, lines 24-30**); changing value calculating programmed logic circuitry for calculating a changing value for changing the parameter of the enemy depending upon a degree of coincidence between the operation timing of said player at a time of being detected by said operation detecting programmed logic circuitry and the timing of the operation timing pattern (see **col.10, lines 44-51**); and parameter updating programmed logic

circuitry for updating the parameter / *executing time* of the enemy appearing in said battle scene on the basis of the changing value calculated by said changing value calculating programmed logic circuitry (see **abstract, lines 10-15**); at least one third storage location that stores a determining value decreasing programmed logic circuitry that decreases the determining value in accordance with the difference calculated by the changing value calculation programmed logic circuitry; and turn ending determining programmed logic circuitry that determines whether or not said determining value is equal to or less than a predetermined threshold value, wherein dependent on a determination that said determining value is not equal to or less than a threshold value, at least the operation detection programmed logic circuitry continues to determine a difference and calculate a changing value, the determining value, and the turn end determining programmed logic circuitry continues to make a determination by comparing the determining value to the predetermined threshold value (see **col.8, line 63-col.9, line 38**).

However, Itou does not explicitly teach an operation detecting programmed logic circuitry for detecting an operation by said player input in response to a change of said input pattern; at least one second storage location that stores timing frame numbers indicative of a plurality of timings at which a player is to make operations, rhythm patterns corresponding to the timings, and music data including information of the rhythm patterns, in association with respective enemy characters; music reproduction programmed logic circuitry that reproduces the music data in a battle scene; a counter that starts to count a frame number in synchronization with a start of a reproduction of the music data produced by said music reproduction programmed circuitry.

Nakatani et al teaches an operation detecting programmed logic circuitry for detecting an operation by said player input in response to a change of said input pattern (see **col.6, lines**

**19-35);** wherein the parameter includes an ability parameter on which a superiority of a fighting capability of the character depends, and said parameter updating mechanism updates the ability parameter of the character to be operated by said player on the basis of the changing value calculated by said changing value calculating mechanism when the battle is ended (see **fig.13B; col.9, lines 42-58**).

Komoto teaches at least one second storage location that stores timing frame numbers indicative of a plurality of timings at which a player is to make operations, rhythm patterns corresponding to the timings, and music data including information of the rhythm patterns, in association with respective enemy characters; music reproduction programmed logic circuitry that reproduces the music data in a battle scene; a counter that starts to count a frame number in synchronization with a start of a reproduction of the music data produced by said music reproduction programmed circuitry (see **col.5, lines 34-37; col.6, lines**

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings and inventions of Itou, Nakatani et al, and Komoto. One would be motivated to do this so as to provide a means for detecting the player input in the game and hence to carry out the operation in response to the input of the player; and to provide an option of timing using rhythm and sounds from the background music.

#### *Response to Arguments*

6. Applicant's arguments filed 07/15/2008 in combination with the pre-appeal brief argument filed 02/27/2009 have been fully considered but they are not persuasive.

In response to the applicant's argument that the prior arts teach merely waiting and do not teach an enemy character moving according to a specific game pattern, the examiner disagrees. The examiner points out that col.6, lines 44-64 of Okita in particular teaches on a storage for storing plurality of specified patterns corresponding to the movement by the characters in the game. Col.6, lines 50-53 specifically clarifies that the specified patterns stored in the storage corresponds to the "usual enemy punching attack processing", and further explains that these pattern are made available plurality of opponents/ *enemies*.

In response to the applicant's argument that the applicant's claimed invention teaches simultaneous movement and attack, and that the prior arts do not teach this limitation, the examiner disagrees. The examiner points that after thorough examination of the applicant's claims and specification, no where does it mention or teach the limitation of simultaneous movement and attack. Secondly assuming for argument sake, this limitation is included in the applicant's invention, the examiner points out that Nakatani et al depicts and discloses a game where both opposing characters move and attack simultaneously without waiting of turn. Further the examiner also points out that it is expected that for an attack to be carried out by a game character, there has to be some type of movement which infers that there is simultaneous movement and attack.

In response to the argument that the examiner agrees with the applicant on the references teaching merely taking of turns, the examiner disagrees. The examiner points out that Itou teaches on delay time between opponent's actions, however neither Nakatani et al nor Okita teach that. Examiner further points out that in addition to the teaching of Okita as clarified above, Nakatani teaches a fighting game wherein upon the pushing of the start button as shown in

fig.13B, both characters 230 and 232 can move and attack at anytime simultaneously without any delay time forced on any of the characters/player of the game.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adetokunbo O. Torimiro whose telephone number is (571) 270-1345. The examiner can normally be reached on Mon-Fri (8am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/A. O. T./

Examiner, Art Unit 3714

/John M Hotaling II/

Supervisory Patent Examiner, Art Unit 3714